

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: Vos, et al. : Conf. No. 8422
Serial No. 10/825,645 : Group Art Unit: 2645
Filed: April 15, 2004 : Examiner: Lisa Hashem
Atty. Ref: 1160215-0531069 .
For: **METHOD AND APPARATUS FOR MANAGING CUSTOMER DATA**

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
COMMISSIONER FOR PATENTS
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Dear Sir:

The Final Office Action dated 07/11/08 ("Final Office Action") rejected claims 1-13, 16-18, and 20-24 under 35 U.S.C. §102(e) as being anticipated by Flores (U.S. Publication 2004/0264670). Applicants request that the Pre-Appeal Brief Conference Panel withdraw the Office's rejections, and either allow the pending claims or re-open prosecution on the merits. Applicants respectfully assert that the Office committed at least two clear errors. First, the Office did not accord any weight to the term "categorized response" during examination.¹ Second, the currently pending claims are not anticipated by Flores.

The Examiner Committed Clear Error by Not According Any Weight to the Limitation
"Categorized Response Comprising at Least One Identifier"

Applicants respectfully assert that the Office committed a clear error during prosecution by not giving any weight to the term "categorized response". During examination, claims may be given their broadest interpretation consistent with the specification.² This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification.³ A patentee is free to be his or her own lexicographer and use terms in a manner other than in their ordinary meaning.⁴ Finally, a claim term may be defined in a particular manner for purposes of a patent even "without an explicit statement of redefinition."⁵

¹ August 19, 2008 Examiner Interview with Examiner Hashem and A. Hahn.

² *In re Yamamoto*, 740 F.2d 1569, 1571 (Fed. Cir. 1984).

³ *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989).

⁴ *Id.*

⁵ *Id.*

When given a plain ordinary meaning, the term “categorized response” deserves to be accorded some weight by the Office during the examination process. The term is recited in every independent claim in the instant application. The Examiner’s decision that the term “categorized responses” be accorded no weight,⁶ or defined as “responses for services provided by the system”⁷ is clear error. Offering the term a definition of “responses for services provided by the system” is almost equivalent to not giving the term any weight. Regardless, either definition is overly broad as both interpretations define the term as encompassing responses that are not categorized.

More particularly, the plain meaning of the term “categorized response” is clear. The term defines a response that is categorized. As discussed in various portions of the specification of the instant application, including paragraphs [0020-0026], a response may be categorized in a variety of ways. In this sense, Applicants have acted as their own lexicographer in defining “categorized responses.” For example, the specification provides that “response information included in the global knowledge database 150 can be categorized and/or coded to aid in retrieval and identification of proper responses and in record accumulation. The order cancellation response, for example, could be coded as response number “29”... Further, when any response system generates an order cancellation response, the response system can provide the proper code, “29,” to the analysis engine or analysis database 160.”⁸ Hence in this example, the order cancellation response has been categorized in a similar manner with other order cancellation responses. Various other examples of the use of categorized responses are provided in the specification including those depicted in FIG. 5 of the instant application (i.e. order status, returns, modify, email).

Yet further, the term “categorized response” is limited in independent claims 1, 13, and 17 of the instant application as each claim recites a “categorized response” comprising “at least one identifier.” The plain meaning of this term is clear. The term defines a response that is categorized, wherein the response includes an identifier. One particular example discussed in the paragraph [0026] of the specification states: “[w]hen a response system provides a response to a customer 120, it also stores an indication of the generating response system in the analysis database 160. For example...it can store a “29” in the analysis database 160 along with an identifier for the automated agent.” Obviously, various identifiers may be used (i.e. customer identifiers).

⁶ August 19, 2008 Examiner Interview with Examiner Hashem and A. Hahn.

⁷ See Examiner Interview Summary sent 09/04/2008, Page 3.

⁸ U.S. Publication 2005/10232399, paragraph [0026].

Therefore, the Examiner has committed, at least, three clear errors. First, the Examiner has not given any weight to the phrase “categorized response.” Second, the Examiner ignored both the plain meaning of this phrase as well as the Applicant’s right to define this phrase by substituting his own construction “responses for services provided by the system.” Finally, to not give any weight to the term “categorized response comprising at least one identifier” is a more egregious error as this term recites a further limitation that was, again, ignored by the Examiner.

Claims 1-13, 16-18, and 20-24 are not anticipated by Flores

In the Office Action dated July 11, 2008, claims 1-13, 16-18, and 20-24 were rejected under 35 U.S.C. §102(e) as being unpatentable over Flores (U.S. Publication 2004/0264670). Under MPEP 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. In addition, the elements in the prior art reference must be arranged as required by the claim.⁹

Flores Does Not Disclose a “Categorized Response”

Applicants submit that Flores fails to teach or suggest all of the respective limitations recited in independent claims 1, 13, and 17. For example, Applicants note that claim 1 recites the claimed limitation of “categorized responses/identifier” at least four times in the course of that claim.¹⁰ Flores does not teach or suggest either limitation. Similarly, claim 13 recites the claim limitation “categorized response/identifier” at least twice.¹¹ Flores does not teach or suggest such limitations, among others, as recited in current claim 13. Finally, claim 17 recites the claim limitation of “categorized response/identifier” at least three times.¹² Again, Flores does not teach or suggest such limitations, among others, as recited in claim 17.

In view of the deficiencies of Flores with respect to independent claims 1, 13, and 17, Applicant respectfully submits that Flores fails to anticipate the claims in accordance with MPEP 2131, and respectfully requests that the rejection be withdrawn. Applicant notes that

⁹ MPEP 2131 (emphasis added).

¹⁰ “[A] global knowledge database including a plurality of categorized responses corresponding to a plurality of user inquiries wherein each categorized response comprises at least one identifier,” and “an analysis database configured to store and analyze first data relating to the categorized responses provided by the first response system and the second response system, and second data relating to the categorized identifiers of the first response and the second response.”

¹¹ “[R]etrieving a categorized response to the user inquiry from a global knowledge system wherein each categorized response comprises at least one identifier; providing the coded response to the user with a response system; storing an identifier of the coded response in an analysis database.”

¹² “[A] first response system configured to provide a first categorized response to a first user inquiry, wherein the first categorized response comprises at least one identifier,” and “an analysis database configured to store and analyze data related to the categorized responses, the response systems, the identifiers, or a combination thereof.”

the dependent claims add other limitations that further distinguish over Flores. As will be explained below, the Office's interpretation of Flores is clearly flawed largely based on a failure to accord any weight to the term "categorized response."

The Office alleges that Flores discloses "a global knowledge database (i.e. service resource; Fig. 1, 160; section 0032) including a plurality of categorized responses (i.e. different service responses; section 0035-0036) corresponding to a plurality of user inquiries wherein each categorized response comprises at least one identifier (i.e. resource availability; resource skill; resource language; weighted criteria; section 0042-0046)."¹³ The "different service responses," cited by the Examiner in Flores [0035-0036], do not constitute the limitation "categorized responses" recited in the relevant claims either under the plain meaning of that limitation or as it may be further defined through examples provided in the Application's specification..

Flores Does Not Disclose an Analysis Database Relating to Categorized Responses

Further, Applicant respectfully disagrees that Flores discloses "an analysis database (Fig. 1, 150; Fig. 3, 310) configured to store and analyze first data relating to the categorized responses provided by the first response system and the second response system, and second data relating to the identifiers of the first response and the second response (section 0034; 0051; 0056)."¹⁴

Flores discloses that "a resource preference rating can be computed for each available service resource [e.g., customer service representative] The service router can route service requests to the service resource with the most favorable resource preference rating."¹⁵ A feedback processor receives feedback denoting a customer service representative's effectiveness with each communication channel and to responsively alter the routing criteria values for the customer service representative so that the customer service representative's current effectiveness is dynamically reflected.¹⁶

More specifically, Flores discloses that feedback includes satisfaction surveys, customer correspondence, sales information, service handling data, personnel appraisals, and sales information resulting from a service request.¹⁷ Based on this feedback, the feedback processor identifies a feedback rating associated with the feedback.¹⁸ This feedback rating is otherwise utilized to alter the routing criteria used when selecting a service resource to respond to a service

¹³ Page 2 of Office Action sent 07/11/08.

¹⁴ Page 3 of Office Action sent 07/11/08.

¹⁵ Flores, para. [0009].

¹⁶ Flores, para. [0037] & FIG. 3.

¹⁷ Flores, para. [0033].

¹⁸ Flores, para. [0049].

request. For example, if a customer provides positive feedback after being directed towards an Internet chat channel for service, this data may be used to affect which service resource (i.e. Internet chat channel, telephone channel) is selected as service resource in the future.

Applicants respectfully submit that Flores is different from the instant application as the instant application does not rely on gathering feedback from customers and using this feedback to judge which service resource is selected to deal with a service request. Among other things, at least some embodiments of the instant application are directed towards monitoring and analyzing categorized responses sent from a response system. Flores does not disclose using categorized responses when responding to an inquiry. Therefore, Flores does not disclose a response system using a categorized response, or an analysis database storing data relating to a categorized response. In contrast, Flores discloses storing and obtaining feedback from those submitting a service request. If those individuals solicited for feedback do not provide any feedback, Flores has no data to store or analyze. As clearly evident, disclosing the gathering and use of feedback is not equivalent to the gathering and use of categorized responses, or identifiers.

Conclusion

Applicant notes that the dependent claims add other limitations that further distinguish over the cited references, providing additional bases for patentability. In view of the foregoing, Applicant respectfully requests that the Pre-Appeal Brief Conference Panel withdraw and reverse the Examiner's rejections of all of the claims on appeal, and that the pending claims be allowed in due course. Applicant reserves all rights and arguments with respect to those claimed features not expressly discussed above. Should this submission not comply with the submission requirements, or if the Panel has any outstanding issues to be addressed, the Applicant invites the Panel to contact the undersigned at (614) 559-7238, or at ahahn@fbtlaw.com.

The Commissioner for Patents is hereby authorized to charge any deficiency or credit any overpayment of fees to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully submitted,

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